

NOTICE OF PROPOSED REGULATIONS

California Code of Regulations Title 15, Crime prevention and Corrections

Division 8.5 California Prison Industry Authority

NOTICE IS HEREBY GIVEN that the California Prison Industry Authority (CALPIA) and the Prison Industry Board (PIB) pursuant to the authority granted by Penal Code (PC) Sections 2801 and 2808 in order to implement, interpret and make specific Penal Code 2808, propose to add section 8903 of Article 3, of the California Code of Regulations (CCR), Title 15, Division 8.5, Settlement Authority.

PUBLIC HEARING:

At this time, no public hearing has been scheduled concerning the proposed adoption to regulations. Anyone may request a public hearing by contacting the Contact Person set forth below. Requests for public hearings must be made no later than February 3, 2019.

PUBLIC COMMENT PERIOD:

The public comment period will close February 18, 2019. Any person may submit public comments regarding the proposed changes in writing. To be considered, comments must be received before the close of the comment period. Use one of the following to submit:

MAIL or HAND DELIVER

CALPIA/Legal Services Unit
560 East Natoma Street
Folsom, CA 95630

FAX

(916) 358-2709

E-MAIL

PIAregs@calpia.ca.gov

CONTACT PERSONS:

Please direct any inquiries regarding this action or questions of substance of the proposed regulatory action to:

M. Doherty, Regulatory Analyst
California Prison Industry Authority
560 East Natoma Street, Folsom, CA 95630
Telephone (916) 358-1711

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

C. Pesce, Administrative Assistant
California Prison Industry Authority
560 East Natoma Street, Folsom, CA 95630
Telephone (916) 358-1711

AUTHORITY AND REFERENCE

The California Prison Industry Authority (CALPIA) and the Prison Industry Board (PIB) pursuant to the authority granted by Penal Code (PC) Sections 2808, in order to implement, interpret and make specific Penal Code 2808, 2809, propose to add section 8903 of Article 3, of the California Code of Regulations (CCR), Title 15, Division 8.5, Settlement Authority.

INFORMATIVE DIGEST:

PIB is adding Section 8903 to provide notice and affirm the PIB's authority to approve CALPIA settlements. The proposed regulatory action will allow PIB to implement its authority vested by the Legislature. In PC section 2808, the Legislature granted PIB powers equal to "all of the things that the board of directors of a private corporation would do"

This regulatory action is necessary to implement, interpret, clarify and make specific Penal Code (PC) Section 2801 regarding inmate participation for work assignments with CALPIA. PC Sections 2801 and 2808 provide the PIB with implied rulemaking authority to establish regulations for developing and operating enterprises to employ prisoners. Pursuant to these statutes, the PIB has authority to approve settlements.

POLICY STATEMENT OVERVIEW:

Historically, the Department of Finance (DOF) has asserted that CALPIA must submit settlements through DOF oversight for approval pursuant to DOF's budget authority and because DOF controls the state budget. CALPIA is not subject to this budget authority and its budget is not within the state budget but is outside the DOF oversight. As noted below, CALPIA's independent authority exists over settlements, and this regulation implements and makes more specific Penal Code sections 2801 and 2808.

In order for CALPIA to function safely and efficiently, this revised regulation is needed to provide notice and affirm the PIB's authority to approve settlements. Presently, CALPIA has settlements pending approval that are delayed by the DOF approval process. CALPIA operates like a private business in order to meet its mission of reducing recidivism by training and employing inmate workers. Like a private business, CALPIA has occasions to enter into settlement agreements that will be cost-effective and expeditiously resolve disputes that arise in the ordinary course of its operations.

ANTICIPATED BENEFITS:

- Will continue to provide a nonmonetary benefit for the protection and safety of public health and safety, by ensuring ongoing efficiency of operations employment inmate workers, and providing work experiences for inmate workers to utilize upon release from custody.
- Will allow resolution on a timelier and more expeditious basis in a business-like fashion an estimated \$685,000 per annum in legal settlements which benefits the public and general welfare of California.

These settlements are time sensitive and current delays may be up to six months creating a slowdown and hampering CALPIA's operations. In addition, these settlements are in the best business interests of CALPIA. An estimated \$685,000 annually in settlements have been stagnated by the cumbersome DOF approval process. As of July 2018, \$400,000 in settlements were pending and delayed. As the PIB has the authority to do all the things a board of directors would do, this includes the authority to approve settlements on behalf of CALPIA. Therefore, to promote CALPIA's operations, reduce costs and delays that impede operations, section 8903 is added to affirm the PIB's authority to approve settlements. The proposed regulatory action will save costs and promote operations by affirming the PIB's settlement authority to resolve business disputes and matters impeding CALPIA's effective operations.

The CALPIA has independent authority separate from DOF and the Prison Industry Board (PIB) has rulemaking authority to promulgate the proposed regulation. In addition, the proposed Section 8903 is consistent with, not in conflict with applicable statutes and reasonably necessary to effectuate the purpose of the relevant statutes.

In 1982, the California Legislature restructured the Department of Corrections' industries and vocational training program abolishing the Correctional Industries Commission and replacing it with the newly created Prison Industry Authority (PIA) (subsequently renamed CALPIA) under the direction of the Prison Industry Board. The Legislature established the Prison Industry Board as autonomous from the Department of Corrections. In 1982, the new Prison Industry Authority was given independent autonomy. The 1982 autonomy of CALPIA provides that normally applicable statutes and administrative regulations placing DOF oversight for approval with DOF over state agencies whose budgets are within the state budget do not apply to CALPIA.

Evaluation of Inconsistency/Incompatibility with Existing Regulations:

During the process of developing this regulation, the PIB has conducted a search of any similar regulations on this topic and has concluded that the proposed regulatory action is neither inconsistent nor incompatible with existing laws and regulations.

Local Mandates:

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Government Code Sections 17500 through 17630.

Fiscal Impact Statement:

Cost to any local agency or school district that is required to be reimbursed in accordance with Government Code Sections 17500 through 17630:.....None
Cost or savings to any state agency:None
Other nondiscretionary cost or savings imposed on local agencies:None
Cost or savings in federal funding to the State:None

Effect of Housing Costs:

The PIB has made an initial determination that the proposed action will have no significant effect of housing costs.

Significant Statewide Adverse Economic Impact on Business:

The PIB has determined that the proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states because they are not affected by the internal management of CALPIA employees.

Results of the Economic Impact Analysis/Assessment

In accordance with the Government Code Section 11346.3(), CALPIA has made the following assessments regarding the proposed regulation:

Creation or Elimination of Jobs within the State of California

The PIB has determined that the proposed regulatory action will have no impact on the creation or elimination of existing jobs within California because those jobs are not affected by the internal management of CALPIA employees.

Creation of New Businesses or Elimination of Existing Businesses within the State of California

This proposed regulatory action will have no effect on the creation of new or elimination of existing businesses within California because those businesses are not affected by the internal management of CALPIA employees.

Expansion of Businesses Currently Doing Business within the State of California

This proposed regulatory action will have no effect on the expansion of businesses currently doing business within the State of California because they are not affected by the internal management of CALPIA employees.

Cost Impacts on Representative Private Persons or Businesses

CALPIA is not aware of any cost impacts that a representative, private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Small Businesses

CALPIA has determined that this action has no significant adverse economic impact on small business because they are not affected the internal management of CALPIA inmate workers.

Consideration of Alternatives

CALPIA has determined that no reasonable alternative considered by CALPIA, or that has otherwise been identified and brought to the attention of CALPIA, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective implementing the statutory policy or other provision of law. Interested persons are invited to submit written statements or arguments with respect to any alternatives to the changes proposed during the written comment period.

Reports Relied Upon

None.

Availability of Proposed Text, Initial Statement of Reasons, and Rulemaking Record; Documents on CALPIA's Website

The Proposed Text, Initial Statement of Reasons, and all the information upon which this proposal is based have been placed in the rulemaking record, which is available to the public upon request directed to the CALPIA's contact person. The documents will also be made available on the CALPIA website: www.calpia.ca.gov.

Availability of Changes to Proposed Text

After considering all timely and relevant comments received, the PIB may approve the proposed regulations substantially as described in this Notice. If CALPIA makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the PIB reviews and approves the regulations as revised. CALPIA will accept written comments on the modified regulations for 15 days after the date on which they are made available. Requests for copies of any modified

regulation text should be directed to the contact person indicated in this Notice or can be viewed by visiting CALPIA's website: www.calpia.ca.gov.

Availability of the Final Statement of Reasons

Following its preparation, a copy of the Final Statement of Reasons may be obtained from CALPIA's contact person or by visiting the CALPIA website: www.calpia.ca.gov.